

APPEAL NO. 030193  
FILED MARCH 11, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 7, 2003. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; that the claimant's horseplay was not a producing cause of the claimed injury; and that the claimant had disability, as a result of his compensable injury, from October 17, 2002, through the date of the hearing. In its appeal, the carrier asserts error in each of those determinations. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's horseplay was not a producing cause of his injury. That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence on the issue of whether the horseplay had come to an end at the time that the claimant fell out of the vehicle he was driving, injuring his left knee. It was a matter for the hearing officer, as the fact finder, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Nothing in our review of the record reveals that the hearing officer's horseplay determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The success of the carrier's argument that the claimant did not sustain a compensable injury and that he did not have disability is dependent upon the success of its argument that the hearing officer erred in making the horseplay determination. Given our affirmance of the determination that the claimant's horseplay was not a producing cause of the injury of \_\_\_\_\_, we likewise affirm the determination that the claimant sustained a compensable injury and had disability from October 17, 2002, through the date of the hearing.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **GULF INSURANCE GROUP** and the name and address of its registered agent for service of process is

**GEOFF ZANETTI  
4600 FULLER DRIVE  
IRVING, TEXAS 75038.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Roy L. Warren  
Appeals Judge